

HOUSE BILL REPORT

HB 2968

As Reported by House Committee On:
Public Safety & Emergency Preparedness

Title: An act relating to crimes against persons.

Brief Description: Addressing crimes against persons.

Sponsors: Representatives Pearson, O'Brien, Kelley, Simpson and Kretz.

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 1/30/08, 1/31/08 [DPS].

Brief Summary of Substitute Bill

- Expands the definition of "crime against persons" to include attempts, solicitations, and conspiracies.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Hurst, Vice Chair; Pearson, Ranking Minority Member; Ross, Assistant Ranking Minority Member; Ahern, Goodman and Kirby.

Staff: Jim Morishima (786-7191).

Background:

The standards for prosecutorial discretion in the Sentencing Reform Act contain a list of "crimes against persons." Crimes on this list include:

- Aggravated Murder 1;
- Arson 1;
- Assault 1, 2, and 3;
- Assault of a Child 1, 2, and 3;
- Bomb Threat (against a person);
- Burglary 1;
- Child Molestation 1, 2, and 3;

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Communicating with a Minor for Immoral Purposes;
- Counterfeiting;
- Custodial Assault;
- Domestic Violence Court Order Violations;
- Extortion 1 and 2;
- Incest 1 and 2;
- Identity Theft 1 and 2;
- Indecent Liberties;
- Intimidating a Juror;
- Intimidating a Public Servant;
- Intimidating a Witness;
- Kidnapping 1 and 2;
- Manslaughter 1 and 2;
- Murder 1 and 2;
- Promoting a Suicide Attempt;
- Promoting Prostitution 1;
- Rape 1, 2, and 3;
- Rape of a Child 1, 2, and 3;
- Riot (against a person);
- Robbery 1 and 2;
- Stalking;
- Unlawful Imprisonment;
- Vehicular Assault; and
- Vehicular Homicide.

Over time, the list of crimes against persons has been put to use in a variety of contexts other than prosecutorial standards. For example, persons sentenced to more than a year of confinement for a crime against persons must receive a mandatory term of community custody (for offenders sentenced to a year or less of confinement, this term is optional). Last year, the Washington Supreme Court ruled that community custody may not be imposed for attempts at a crime against persons because attempts are not specifically included on the list. In re the Postsentence Review of Leach, 161 Wn.2d 180 (2007).

Other purposes for which the list of crimes against persons are used include:

- requiring the Department of Corrections to supervise offenders convicted of crimes against persons;
- making offenders convicted of crimes against persons ineligible for 50 percent earned release time;
- determining whether an offense is a "serious offense" for purposes of involuntary medication for competency restoration;
- determining whether certain criminal history records may be disseminated without restriction; and
- determining whether a prosecutor must file any information in juvenile court.

Summary of Substitute Bill:

The existing list of "crimes against persons" is re-named "crimes affecting persons." The list of crimes affecting persons is made applicable only to provisions involving standards for prosecution.

A new definition is created for "crimes against persons." The new definition applies to:

- imposing mandatory and permissive terms of community custody;
- making offenders convicted of crimes against persons ineligible for 50 percent earned release time;
- determining whether an offense is a "serious offense" for purposes of involuntary medication for competency restoration;
- determining whether certain criminal history records may be disseminated without restriction; and
- determining whether a prosecutor must file any information in juvenile court.

The new definition of crimes against persons includes every offense on the old list plus attempts, conspiracies, and solicitations to commit the crimes on the list.

The Sentencing Guidelines Commission (SGC) must study the definition of crimes against persons and determine whether there are offenses that should be added to, or subtracted from, the definition. The SGC must make its determination in light of the history and purpose of the definition and the purpose of the Sentencing Reform Act. The SGC must report its finding and recommendations to the Legislature by December 1, 2008.

Substitute Bill Compared to Original Bill:

The substitute bill removes all the new felonies from the definition of crimes against person except attempts, conspiracies, and solicitations. The substitute bill requires the SGC to study adding or subtracting felonies from the list of crimes against persons and report back to the Legislature by December 1, 2008.

Appropriation: None.

Fiscal Note: Original bill requested on January 27, 2008. New fiscal note requested on February 1, 2008.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) Last year, the Washington Supreme Court ruled that attempts at crimes against persons are not punishable by a mandatory term of community custody. This bill makes a clarification to address this decision. The original list of "crime against persons" was used only for filing standards for prosecutors. Over time, sentencing consequences began to be tied to the definition. This bill moves the list of crimes into the definition section and adds attempts, conspiracies, and solicitations to the list. The new offenses that are added to the list

are crimes against persons that were omitted from the original list. Persons convicted of these offenses will be ineligible for 50 percent earned release and will be subject to state supervision in the community, which will be well worth the cost.

(Opposed) None.

Persons Testifying: Representative Pearson, prime sponsor; and Tom McBride, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.